

EVICION

is the court-ordered removal of the tenant and the tenant's personal belongings from a rental property. It is the final step in a series of procedures initiated by the landlord to regain possession of the rental property. A tenant may be evicted for non-payment of rent, breach of lease, or tenant holding over. A tenant holding over is someone who did not vacate by the date given on the notice to vacate the property. Only the District Court and the Sheriff's Office may evict a tenant. The landlord does not have the right to evict without proper judicial process. Any lock-out of a tenant or removal of tenant's property without judicial process is prohibited by law and exposes the landlord to substantial civil liability. This brochure is designed to give some helpful hints that will hopefully prevent landlords and tenants from going through the eviction process. In addition, this brochure provides a list of resources for tenants who face possible eviction.

Filing complaints with the Office of Landlord-Tenant Affairs or Housing and Code Enforcement will not stay any proceeding against you in the District Court. Remember, the Department of Housing and Community Affairs is a separate entity from the Court. Therefore, in order to protect your rights, you must attend any court dates that are scheduled.

If you have questions about evictions or anything in this brochure, please call the Office of Landlord-Tenant Affairs at 240-777-3609 or browse our website at:

www.montgomerycountymd.gov/hca

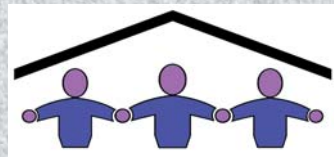
This pamphlet is not legal advice but is an informative tool to help landlords and tenants. Although the information is believed to be accurate, if there are any inconsistencies between it and applicable laws or regulations, those laws are controlling.

**THIS INFORMATION IS AVAILABLE
IN AN ALTERNATIVE FORMAT
BY CALLING: 240-777-3609**

TDD: 240-777-3679 (TDD)

Fax: 240-777-3691 (Fax)

Web: www.montgomerycountymd.gov/hca



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS



**Montgomery County, Maryland
Division of Housing and Code Enforcement
Office of Landlord-Tenant Affairs**

Phone: 240-777-3600

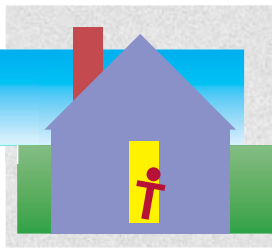
Fax: 240-777-3691

www.montgomerycountymd.gov/hca
100 Maryland Avenue, 4th Floor
Rockville, MD 20850



Montgomery County, Maryland
Department of Housing and Community Affairs
Division of Housing and Code Enforcement
Office of Landlord-Tenant Affairs
240-777-3609

HELPFUL HINTS



TENANTS:

■ Always pay your rent on time. Remember, rent is due on the 1st of the month (generally rent is due on the 1st of each month, however you are bound by the date stipulated in the lease) and it is late on the 2nd. You can be sued anytime after the first. Not paying your rent on time constitutes a breach of lease and can result in a negative rental history. In a tight rental market, landlords can be more selective and may use this information as a basis not to renew your lease at its expiration.

■ Always request a written receipt for your rent payments and maintain a record of your payments. If you are sued by the landlord, always attend the court hearing, even if you have paid the rent. Sometimes the landlord fails to notify the Court that your rent has been paid and the court could enter a judgment against you if you are not present.

■ Try to maintain a good rental payment history. The Registry, a service used by an increasing number of landlords, specializes in collecting and reporting rental information about tenants. The Registry regularly collects information regarding landlord-tenant court filings. This information goes on your record just as poor payment history on credit cards or loan payments are reported to credit bureaus. This information stays on your record for 7 years. Landlords who use the Registry to screen tenants will take this information into account. Having a negative rental history can make it difficult for you to obtain alternative housing in the future.

■ Tenants who are renting rooms have the same basic rights as tenants renting apartments or houses. You should get all agreements in writing and obtain receipts for all rent payments.

LANDLORDS:

■ Screen tenants carefully before signing a lease. The Registry provides comprehensive reports regarding an applicant's credit and rental history. Landlords who are currently licensed by the Department's Licensing and Registration Unit can receive reports from the Registry at a minimal cost.

■ Discuss any concerns you have regarding information contained in a prospective tenant's credit or rental history.

■ Keep accurate rental records.

■ Do not let tenants get too far behind in their rent before you file suit for Failure to Pay Rent. While the court can give a judgment in favor of the landlord for rent and late fees owed, collection of a judgment can be time consuming and costly. Taking quick action will reduce your potential exposure for unpaid rent.

EVICITION PROCESS

1. The landlord files suit with the District Court stating the reason for requesting a judgment for repossession of the property;

2. When filing an action to repossess property, the landlord must certify that the property is currently registered with MDE and give the certificate number.

3. When filing an action to repossess property, the landlord must also certify whether or not the tenant(s) is/are in military service.

4. The District Court schedules a hearing and issues the tenant a summons to appear in court. The summons is forwarded to the Sheriff's Office for service;

5. The Sheriff mails one copy of the summons by first class mail to the tenant. The Sheriff then attempts to serve the tenant in person. If the tenant is not available to be served, a copy of the summons is posted on the door of the rental property;

6. If the tenant appears in District Court, he/she has the right to offer a defense. After the hearing, the Judge decides whether the landlord is entitled to repossession of the property;

7. If the tenant fails to appear, the Court will likely award a default judgment for the landlord to repossess the property. If the landlord or agent fails to appear, the Court will dismiss the action;

8. If either party disagrees with the Court's ruling, they have the right to appeal the decision to the Circuit Court.

This appeal must be filed within 10 days after a tenant holding over or breach of lease judgment or within four days after a failure to pay rent judgment;

9. Once the appeal period expires, and no appeal has been filed, the landlord may file a Warrant of Restitution, which is signed by the Judge and forwarded to the Sheriff's Office;

10. Once the Warrant of Restitution is mailed to the tenant and the landlord by the Sheriff's Office, the landlord contacts the Sheriff to schedule a date and time for the eviction;

11. Once the eviction is scheduled, the Sheriff may post a red and white notice on the tenant's door. However, if such a notice is not posted, the Sheriff will still proceed with the eviction;

12. While the landlord is responsible for removing the tenant's possessions from the property and placing them in the closest public right of way, an eviction cannot take place unless the Sheriff is present;

13. If a landlord gets a judgment for repossession against a tenant for Failure to Pay Rent, in most cases, the tenant can prevent an eviction by paying the judgment before the Sheriff executes the eviction order. This payment must be made by cash, certified check or money order to the landlord or his agent. The tenant needs to get a receipt and confirm with the Sheriff's Office that the landlord has canceled the eviction. The tenant can be evicted the first time the landlord files an action for non-payment of rent

against him/her if the tenant does not pay when, or before, the Sheriff arrives; and,

14. If three judgments for unpaid rent have been entered against a tenant in the 12 months prior to the initiation of a Failure to Pay Rent action, on the fourth filing, the landlord can request a Judgment Absolute with No Right of Redemption. If a Judgment Absolute is

entered, the tenant WILL be evicted, whether or not he/she has paid the past due rent.

If you receive a Warrant of Restitution, you can call the Sheriff at 240-777-7130 to see if an eviction has been scheduled for your address. The Sheriff will NOT tell you the specific date and time that an eviction will take place.

RESOURCES



Emergency Services

These services include emergency financial assistance and/or shelter to families or adults who are homeless or at high risk of losing their housing, victims of individual or community disasters, or persons stranded away from home. Financial assistance may be available to assist tenants with rental deposits, past due rent, past due utilities, moving or storage costs, and emergency shelter. If you receive a Failure to Pay Rent notice, you may be eligible to receive financial assistance. Please call one of the following numbers and ask about the County's emergency assistance programs:

- ▶ **HHS Information and Referral Line** 240-777-1245
- ▶ **Germantown Crisis Intervention** 240-777-4448
12900 Middlebrook Road, Germantown
- ▶ **Rockville Crisis Intervention** 240-777-4550
1301 Piccard Drive, Rockville
- ▶ **Silver Spring Crisis Intervention** 240-777-3075
8818 Georgia Avenue, Silver Spring
- ▶ **Crisis Center** (After hours-shelter referral) 240-777-4000
- ▶ **In addition**, there are several community based charitable

organizations that may be able to assist you in a crisis; however you must first obtain a referral through the County Department of Health and Human Services.

Legal Services

- ▶ **Legal Aid Bureau Inc.** 301-560-2100
- ▶ **Pro Bono Clinic (MC Bar Assn.)** 301-424-7651
- ▶ **Archdiocesan Legal Network** 202-628-4263
- ▶ **Lawyer Referral (MC Bar Assn.)** 301-279-9100